

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  QWEST CORPORATION, d/b/a CENTURYLINK QC	DOCKET NO. INU-2014-0002
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**PROCEDURAL ORDER AND NOTICE OF HEARING**

(Issued September 9, 2014)

On August 8, 2014, the Utilities Board (Board) issued an "Order Granting Motion for Admission Pro Hac Vice and Assigning Case to Administrative Law Judge." The order docketed the petition filed by Qwest Corporation, d/b/a CenturyLink QC (CenturyLink) on June 20, 2014, to add CenturyLink's Davenport East and Cedar Rapids Downtown wire centers to its list of non-impaired wire centers. The Board's order assigned this case to the undersigned administrative law judge.

In its petition, CenturyLink states it is requesting approval to add the two wire centers to its list of non-impaired wire centers in accordance with the *Triennial Review Remand Order*<sup>1</sup> issued by the Federal Communications Commission (FCC), and in conformity with and pursuant to the Board's decisions in Docket Nos. INU-08-2

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<sup>1</sup> *In the Matter of Review of Unbundled Access to Network Elements, Review of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, "Order on Remand," CC Docket No. 01-338, WC Docket 04-313 (released February 4, 2005) (*TRRO*).

and INU-2009-0001<sup>2</sup>. CenturyLink states its confidential data establishes that the two wire centers qualify as Tier 2 wire centers for DS3 transport and dark fiber, based entirely on the number of fiber-based collocators in each wire center.

On September 8, 2014, a telephone prehearing conference was held in this case. CenturyLink was represented by its attorney, Ms. Becky Owenson Kilpatrick. The Consumer Advocate Division of the Department of Justice (Consumer Advocate) was represented by its attorney, Ms. Alice Hyde. Board staff Mr. Dennis Rosauer was also present on the call. The parties agreed to the procedural schedule and hearing date set forth in this order. CenturyLink agreed to re-file the affidavit of Ms. Renee Albersheim as a separate filing, because the affidavit was previously filed in this docket only as an attachment to CenturyLink's request for confidentiality. CenturyLink stated it would re-file the affidavit on September 9, 2014.

Pursuant to the decisions in Docket Nos. INU-08-2 and INU-2009-0001, and the order approving the settlement agreement in Docket No. INU-2013-0001, the decision in this case will be binding on all competitive local exchange carriers (CLECs) operating in Iowa. Therefore, electronic notice of this order should be provided to all CLECs known to be operating in Iowa.

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<sup>2</sup> *In re Qwest Corporation*, Docket No. INU-08-2, "Proposed Decision," (July 30, 2009); *In re Qwest Corporation*, Docket No. INU-2009-0001, "Proposed Decision," (December 8, 2009). The undersigned administrative law judge notes an order updating CenturyLink's non-impaired wire center list was also issued in 2013 in *In re Qwest Corporation, d/b/a CenturyLink QC*, Docket No. INU-2013-0001, "Order Approving Settlement Agreement and Canceling Hearing," (November 19, 2013).

Pursuant to the Board's order docketing the case, Iowa Code §§ 17A.11(1)"b" and 17A.12 (2013), and 199 IAC 7 and 14, a procedural schedule will be established and a hearing date set.

The statutes and rules involved or potentially involved in this case include 47 U.S.C. §§ 201, 202, 251, the *TRRO*, the FCC's *Triennial Review Order*,<sup>3</sup> Iowa Code chapter 476, and Board rules at 199 IAC 1.8, 1.9, and chapters 7, 14, 22, and 38. Links to the Iowa Code and the Board's administrative rules are contained on the Board's Web site at <http://iub.iowa.gov>.

## THE ISSUE

The issue in this case is whether CenturyLink's Davenport East and Cedar Rapids Downtown wire centers should be classified as Tier 2 non-impaired wire centers for DS3 transport and dark fiber, based entirely on the number of fiber-based collocators in each wire center.

## PREPARED TESTIMONY AND EXHIBITS

All parties will have the opportunity to present and respond to evidence and make argument on all issues involved in this proceeding. Parties may choose to be represented by counsel at their own expense. Iowa Code § 17A.12(4). The

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<sup>3</sup> *In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Deployment of Wireline Services Offering Advanced Telecommunications Capability*, "Report and Order and Order on Remand and Further Notice of Proposed Rulemaking," CC Docket Nos. 01-338, 96-98, 98-147 (released August 21, 2003) (*Triennial Review Order*); vacated in part, remanded in part, *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554 (D.C. Cir. March 2, 2004).

proposed decision that will be issued in this case must be based on evidence contained in the record and on matters officially noticed. Iowa Code §§ 17A.12(6) and 17A.12(8).

The submission of prepared evidence prior to hearing helps identify disputed issues of fact to be addressed at the hearing. Prepared testimony contains all statements that a witness intends to give under oath at the hearing, set forth in question and answer form. When a witness who has submitted prepared testimony takes the stand, the witness does not ordinarily repeat the written testimony or give a substantial amount of new testimony. Instead, the witness is cross-examined concerning the statements already made in writing. The use of prepared testimony and submission of documentary evidence ahead of the hearing prevents surprise at the hearing and helps each party to prepare adequately so a full and true disclosure of the facts can be obtained. Iowa Code §§ 17A.14(1) and (3); 199 IAC 7.10.

#### **PARTY STATUS AND ELECTRONIC FILING**

CenturyLink and the Consumer Advocate are currently the only parties in this proceeding. If any person wishes to become a party to this case, the person must file a petition to intervene no later than 20 days following the issuance of this order. 199 IAC 7.13. As stated in the rule, petitions to intervene must substantially comply with the form prescribed in 199 IAC 2.2(10).

This docket is subject to the Board's electronic filing rules in 199 IAC 14. Orders issued and documents filed in this docket may be viewed on the Board's

Electronic Filing System (EFS) Web site at <http://efs.iowa.gov>. Instructions for submitting an electronic filing can be found on the EFS Web site.

**IT IS THEREFORE ORDERED:**

1. Notice of this order will be served electronically on all CLECs known to be operating in Iowa. CLECs who wish to receive any further notifications in this docket must follow the requirements for intervention set forth in this order.

2. Any person not currently a party who wishes to intervene in this case must meet the requirements for intervention in 199 IAC 7.13 and must file a petition to intervene with the Board no later than 20 days following the issuance of this order. 199 IAC 7.13(1).

3. On or before October 9, 2014, CenturyLink must file prepared direct testimony and exhibits in support of its petition. CenturyLink must also file an exhibit list with its exhibits. CenturyLink should use exhibit numbers one and following.

4. If the Consumer Advocate or any intervener wishes to file testimony and exhibits in this case, the testimony and exhibits must be filed on or before October 23, 2014. Such testimony and exhibits are to be both the initial testimony of the party and testimony responsive to CenturyLink's testimony. The Consumer Advocate should use exhibit numbers 100 and following and must file an exhibit list with its exhibits. Interveners who file exhibits should use exhibit numbers that begin with the sponsoring witness's initials followed by numbers beginning with 200 and must file an exhibit list.

5. If CenturyLink chooses to file prepared reply testimony and exhibits, it must do so on or before November 6, 2014. If it files additional exhibits, CenturyLink must file an updated exhibit list.

6. If a party wishes to have a witness connected to the hearing by telephone conference call, the party must file a request with the Board on or before November 6, 2014. Any party objecting to the participation of the witness by telephone conference call must file an objection with the Board on or before November 10, 2014.

7. A hearing for the presentation of evidence and the cross-examination of witnesses will be held in the Board Hearing Room, 1375 E. Court, Des Moines, Iowa, beginning at 10 a.m. on Thursday, November 13, 2014. Witnesses who have been approved to participate in the hearing by telephone conference call must dial 1-866-685-1580, and enter conference code 2816326# when prompted by the operator. Each party must provide a copy of its prepared testimony and exhibits to the court reporter. Persons with disabilities requiring assistive services or devices to observe or participate should contact the Board at (515) 725-7334 no later than five business days prior to the hearing to request that appropriate arrangements be made.

8. If needed, a post-hearing briefing schedule will be set at the conclusion of the hearing.

9. In the absence of objection, all data requests and responses referred to in oral testimony or on cross-examination will become part of the evidentiary record of this proceeding. Pursuant to 199 IAC 7.23(4)"d," the party making reference to the data request must file the data request and response with the Executive Secretary of the Board at the earliest possible time.

**UTILITIES BOARD**

/s/ Amy L. Christensen  
Amy L. Christensen  
Administrative Law Judge

ATTEST:

/s/ Joan Conrad  
Executive Secretary

Dated at Des Moines, Iowa, this 9<sup>th</sup> day of September 2014.